

## **II. Examiner Interview Summary**

The Examiner in Charge of the present application, Mr. Patrick Brinson, is thanked for the courtesies extended during a telephone interview with the undersigned attorney of record on Friday, January 23, 2009. During the interview, the U.S. Patent No. 6, 001,081 to Justin Collen was discussed. More particularly, the rejection of claims 20 – 24, 36 and 59 – 62 being rejected as obvious in view of Collen was discussed.

The claims were discussed in detail. It was pointed out that the present invention contacts the tubing substantially around its entire periphery and holds the tubing in place. It was presented to the Examiner that the referenced device is in no way holding the drip tube 40, but is, instead, holding the spigot 38. Therefore, it was maintained by the undersigned Attorney of Record that Collen ('081) could not teach enlarging the drip tube 40 to contact the walls of the channels 42 and 44 without entirely changing the principle of operation of the reference. If the drip tube 40 were enlarged to contact the walls of the channels 42 and 44, there would be no need for the device of Collen to hold the spigot 38 to prevent dislodgement of the needle 36. Either way, the function of the device is changed.

Changing the principle of operation of the referenced device to make the rejection is something that is specifically prohibited by the recent decision in *KSR v. Teleflex*, 85 USPQ 2<sup>nd</sup> 1385 (U.S. Sup. Ct. 2007). Therefore, claims 20-24, 36 and 59-62 are clearly allowable.

The indefiniteness of claims 27-30 was next discussed. An agreement was reached on language which would make claims 27-30 allowable. The amendments to claims 27 – 30 reflect the agreements made with the Examiner.